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General Assembly

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Official Records

99th Meeting
Wednesday, 27 July 1994, 12 noon
New York

President: Mr. Insanally . . . . . (Guyana)

The meeting was called to order at 12.15 p.m.

Agenda item 36 *(continued)*

Law of the sea

(a) Report of the Secretary-General (A/48/950)

(b) Draft resolution (A/48/L.60)

(c) Report of the Fifth Committee (A/48/964)

The President: In connection with agenda item 36, the Assembly has before it a draft resolution (A/48/L.60) entitled "Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982".

Before calling on the first speaker, I should like to propose that the list of speakers in the debate on this item be closed today at 4 p.m. If there is no objection I shall take it that the Assembly agrees to that proposal.

It was so decided.

The President: I call upon the representative of Fiji to introduce draft resolution A/48/L.60.

Mr. Nandan (Fiji): The adoption in 1982 of the United Nations Convention on the Law of the Sea was a momentous occasion in the history of international law and international relations. That event was all the more significant in that the Convention, for the most part, was the result of consensus or broad agreement among some 160 States which participated in the Third United Nations Conference on the Law of the Sea.

The present session of the General Assembly will establish another milestone in the development of the modern international law of the sea. It will mark the achievement of broad agreement on that part of the Convention which deals with the regime for the mining of minerals from the deep-sea bed, that is part XI of the Convention, over which differences had persisted since the conclusion of the Third United Nations Conference. Those differences have until now inhibited a number of States from becoming parties to the Convention, a Convention which they otherwise support. Upon the adoption of the draft resolution before the General Assembly in document A/48/L.60 of 22 June 1994 and of the draft agreement appended to it, the international community will be able justifiably to claim that it has at last achieved a consensus or broad agreement on all parts of the Convention and therefore on all aspects of the law of the sea.

Taken as a whole, the Convention provides for an equitable relationship among States in their use of the oceans based on their respective geographical characteristics, economic circumstances, political imperatives and global responsibilities. It establishes certainty in the international law of the sea in place of the chaos and uncertainty created by the proliferation of unilateral claims that caused the General Assembly to

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convene in 1973 the Third United Nations Conference on the Law of the Sea.

The Convention achieves a delicate balance between competing interests in maritime zones. It establishes 12 nautical miles as the breadth of the territorial sea with a guaranteed right of passage for international navigation in those waters; it ensures unhampered passage of all kinds of vessels through archipelagic sea lanes and vital straits around the world; it secures for coastal States resource jurisdiction in a 200-nautical-mile exclusive economic zone; it provides for an extended continental shelf jurisdiction of coastal States up to 350 nautical miles; it guarantees access to and from the sea for land-locked States; it provides for a regime for archipelagic States; it establishes a regime for the development of the mineral resources of the deep seabed; it sets out rules for the conduct of marine scientific research; it imposes a duty on all States to ensure, through proper conservation and management measures, the long-term sustainability of fish resources; it contains the most comprehensive rules for the protection and preservation of the marine environment and imposes a duty on States to protect the oceans from all sources of pollution; and it promotes peaceful settlement of disputes relating to the oceans by establishing mechanisms and procedures for compulsory settlement of disputes arising from the interpretation and application of the provisions of the Convention.

The broad support that the Convention already enjoys in respect of matters relating to the oceans, other than those which relate to the regime for the seabed, is evidenced by the remarkable level of uniformity that has evolved in State practice consistent with the provisions of the Convention. The Convention, even before its entry into force, has become the basis for the settlement of disputes on maritime issues, as is reflected in the decisions of the International Court of Justice and other tribunals. In this sense the Convention, which governs about 70 per cent of the Earth's surface, has already made an immeasurable contribution to international peace and security. It has indeed become an indispensable part of the global system for peace and security of which the Charter of the United Nations is the foundation.

In recognizing the contribution of the Convention to the international community, it is fitting to pay tribute to the many delegations and individuals who worked so arduously at the Third United Nations Conference on the Law of the Sea to weave together the many provisions which ultimately became the 1982 United Nations Convention on the Law of the Sea.

Given the global importance of the Convention, my delegation has always supported the view that its achievements can best be consolidated through universal participation. We firmly believe that the outstanding issues relating to the regime for deep seabed mining could and should be resolved in a practical and pragmatic manner satisfactory to all. We were therefore very grateful to Secretary-General Javier Pérez de Cuéllar when he took the timely step, in July 1990, of promoting dialogue amongst States in order to address the specific areas of difficulties that some States had with Part XI of the Convention and for the approaches that he suggested towards resolving those outstanding issues. These suggestions were summarized in a note dated 31 January 1992 and became the foundation for the Agreement that this Assembly is considering for adoption. We are also grateful to Secretary-General Boutros Boutros-Ghali for continuing to provide a forum for States to resolve the outstanding issues. We also extend our thanks to the members of the Secretariat for their invaluable assistance.

The dialogue to resolve the outstanding issues that ensued since 1990 was based on two fundamental premises: first, the integrity of the Convention must not be eroded - all issues in the Convention are interrelated and must remain part of the whole, there can be no reservation on any part of the Convention, and all parts must be subject to compulsory dispute settlement procedures as provided for in the Convention.

The second premise was that specific issues in Part XI which created difficulties for industrialized countries should be clearly identified and addressed in the context of Part XI. The progress that has been made in the negotiations among States since 1990 is clearly due to adherence to these two premises and is reflected in the Agreement that is before the General Assembly for adoption.

At the Third United Nations Conference on the Law of the Sea, informal private negotiating groups were critical to the resolution of some of the most intractable issues. The negotiations which led to the present Agreement were no exception to this well-established practice. Thus, at a crucial stage in the Secretary-General's informal consultations, when negotiations were heading towards an impasse, a group of representatives from both developed and developing States who held similar views in the discussion on procedural approaches to an agreement developed an informal and anonymous paper which was dated

August 1993. The paper came to be known as the "Boat Paper" because of an illustration of a seabed mining vessel on the cover.

This paper, which was presented as a contribution to the process of consultations, soon became the basic paper in the negotiations. It contained a draft resolution for adoption by the General Assembly to which was appended a draft agreement with annexes. Subsequent revisions of the paper were undertaken in an expanded Boat Paper Group in which all key delegations and interest groups were represented. These revisions took into account the discussions in the Secretary-General's consultations and in the Boat Paper Group itself. The final text as developed by the Group is now contained in the annex of the Secretary-General's report (A/48/950) and in document A/48/L.60.

My delegation would like to express its sincere gratitude to our colleagues from developed and developing countries who participated in the original Boat Paper Group and also to those who participated in and contributed to the work of the expanded Group. We believe that the General Assembly also owes a debt of gratitude to the members of the Group of 77 and to representatives of the industrialized countries, all of whom set aside their ideological positions, which had led to an impasse in the negotiations at the Conference, and who in these negotiations approached the issues in a practical and pragmatic manner. The result of this approach can be readily observed in the quality of the Agreement that has been reached.

As a consequence, the regime for the mining of the deep seabed is considerably streamlined and simplified. It takes a functional approach towards the establishment of the administrative institutions under Part XI; it provides for a stable environment for investors in deep-seabed minerals under a market-oriented regime; it guarantees access to the resources of the seabed to all qualified investors; it provides for the establishment of a system of taxation which is fair to the seabed miner and from which the international community as a whole may benefit; and it makes provisions for assistance to developing land-based producers of minerals whose economies may be affected as a consequence of deep seabed mining. Thus the Agreement provides a practical and realistic basis for the realization of the principle of the common heritage of mankind.

My delegation considers it a privilege to introduce on behalf of its sponsors the draft resolution and the Agreement contained in document A/48/L.60 which is before the General Assembly. This draft resolution is being sponsored by the following States: Antigua and Barbuda, Argentina, Australia, Austria, the Bahamas, Chile, Germany, Greece, Grenada, Iceland, India, Indonesia, Jamaica, Japan, Kenya, Malta, the Federated States of Micronesia, Myanmar, the Marshall Islands, the Netherlands, New Zealand, Namibia, the Republic of Korea, Singapore, Sri Lanka, the United Kingdom of Great Britain and Northern Ireland, the United States of America and my own, Fiji.

In adopting the draft resolution, the General Assembly would also adopt the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, which is appended to it. The General Assembly, *inter alia*, would also affirm that the Agreement shall be interpreted and applied together with Part XI of the Convention as a single instrument.

It will express its satisfaction at the entry into force of the Convention on 16 November 1994, and it will decide to fund the administrative expenses of the International Seabed Authority from the budget of the United Nations as a transitional measure. The General Assembly would also request the Secretary-General to transmit immediately certified copies of the Agreement to the States and entities that are entitled to become parties to the Convention and this Agreement, with a view to facilitating universal participation in the Convention.

The Assembly would also request the Secretary-General to open the Agreement for signature immediately after its adoption. It would urge all States and entities to apply the Agreement provisionally and become parties to it at the earliest possible date. In addition, it would urge those who have not already done so to become parties to the Convention as a whole in order to ensure universal participation in it.

Finally, the Assembly will call upon the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea to take into account the terms of the Agreement when drawing up its final report.

In the Agreement which is appended to the draft resolution, States would, *inter alia*, recognize the important contribution of the 1982 United Nations Convention on the Law of the Sea to the maintenance of peace, justice and progress for all peoples of the world. The Agreement refers to the report of the

Secretary-General on the results of the informal consultations among States held from 1990 to 1994 on the outstanding issues relating to Part XI and related provisions of the Convention. It notes that political and economic changes, including market-oriented approaches, have affected the implementation of Part XI since the adoption of the Convention in 1982. It also indicates that States consider that the Agreement relating to the implementation of Part XI - the Agreement appended to the draft resolution - would best meet the objective of facilitating universal participation in the Convention.

The operative part establishes the relationship between this Agreement and Part XI of the Convention, which are to be interpreted and applied together as a single instrument. It states that the Agreement shall remain open for signature for 12 months after the date of its adoption and that any future instrument of ratification or formal confirmation or accession to the Convention shall also represent consent to be bound by the Agreement. It prescribes various methods that States may utilize to establish their consent to be bound by the Agreement. In particular, it provides for a simplified procedure for those States which have already expressed their consent to be bound by the Convention prior to the adoption of this Agreement.

With respect to the entry into force of the Agreement, it provides that entry into force will take place 30 days after the date on which 40 States have established their consent to be bound, provided that such States would include at least seven of the States entitled to become pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea, and that of these seven, at least five States should be from among developed industrialized States. The entry into force of the Agreement, however, shall not take place before 16 November 1994, which is the date of entry into force of the Convention itself.

The Agreement further provides for its provisional application if it has not entered into force on 16 November 1994, and it sets out procedures for such provisional application. It also states that provisional application shall terminate upon entry into force of the Agreement, or in any event on 16 November 1998, if the requirement that at least five industrialized States referred to in resolution II should have become parties to the Agreement by that date has not been fulfilled. The Secretary-General of the United Nations, as depositary of the Convention, is designated as depositary of the Agreement.

The annex to the instrument contains the substantive terms of the Agreement on the outstanding issues relating to Part XI. This annex contains nine sections.

Section 1 deals with costs to States Parties and institutional arrangements. It provides, *inter alia*, that a cost-effective and evolutionary approach should be taken in the establishment of all organs and subsidiary bodies under the Convention and this Agreement in order to minimize costs to States Parties. Consistent with this approach, it identifies the early functions on which the International Seabed Authority will concentrate. It sets out the procedures for the approval of plans of work, and, in particular, it deals with the plans of work that are to be submitted to the Authority by those identified as being eligible for pioneer investor status under resolution II. It prescribes special procedures to facilitate the integration into the Convention system of the pioneer investors registered by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. It also provides that any plan of work submitted to the Authority shall be accompanied by an assessment of the potential environmental impact of the proposed activities and by a description of a programme for oceanographic and baseline environmental studies in accordance with the rules, regulations and procedures to be adopted by the Authority.

It provides for the continuation of the membership of the Authority on a provisional basis for States which have not become parties to the Convention before the provisional application period terminates. Such membership shall not extend beyond 16 November 1996, unless it is extended for a further period of up to two years if the State concerned is making a good faith effort to become a party to the Convention and the Agreement. Provisional members are to have the same rights and obligations under Part XI and the Agreement as States Parties.

With respect to the administrative budget of the Authority, as a transitional measure it is provided that the administrative expenses of the Authority shall be met from the budget of the United Nations. The transitional period is limited to the end of the year following the year during which the Agreement enters into force. Thereafter, contributions to the administrative budget will be made directly to the Authority by States Parties.

Finally, this section provides that the Authority may, at any time, elaborate and adopt rules, regulations

and procedures based on the principles contained in the annex to the Agreement, as well as any additional rules, regulations and procedures necessary to facilitate the approval of plans of work for exploration or exploitation as seabed mining activities develop.

Section 2 of the annex deals with the Enterprise, the operating arm of the Authority. It provides that the initial functions of the Enterprise shall be undertaken by the Secretariat of the Authority. These functions have been identified in this section. More importantly, this section provides that the initial deep-seabed mining operations of the Enterprise shall be through joint ventures. If joint-venture arrangements with the Enterprise accord with sound commercial principles, the Council is required to issue a directive for the independent functioning of the Enterprise from the Secretariat of the Authority. The obligation of States Parties to fund one mine site for the Enterprise as provided for in the Convention shall not apply, and States Parties shall be under no obligation to finance any operation of the Enterprise. The Enterprise shall be subject to the same rules and regulations as any other deep-seabed mining operator.

Section 3 deals with decision-making. The procedure for decision-making in the Council of the Authority has been considerably streamlined and simplified. This section provides that voting shall take place only when all efforts to reach a decision on substantive matters by consensus have been exhausted. This section sets out a system of voting by chambers. The practical effect of the chamber system of voting is to promote decisions by consensus. In cases other than those for which the Convention provides for decisions by consensus, decisions on substantive matters in the Council are to be taken by a two-thirds majority, provided such decisions are not opposed by a majority in any one of the chambers. The Council will have 36 members and will consist of four chambers for this purpose. These chambers will ensure that important interests have assured representation in the Council.

In order to ensure that a duly qualified applicant is assured of a contract with the Authority, a special procedure is prescribed for the approval of an application for a plan of work. Such plans of work can only be disapproved by the Council of the Authority by a two-thirds majority, provided such majority includes a majority of members in each chamber. Further, a plan of work would be deemed to have been approved if the Council did not act within 60 days following the recommendation of its approval by the Legal and Technical Commission, which will be a technical body composed of experts.

Section 4 deals with the Review Conference and provides that such a review may take place at any time, and not after 15 years from the date of the first commercial production, as was stated in the Convention. Furthermore, any amendments arising from such a Review Conference shall be subject to the amendment procedures set out in the Convention.

Section 5 deals with the transfer of technology. In the light of the approach taken for the operations of the Enterprise, the requirement for a possible mandatory transfer of technology by a contractor as provided for originally in the Convention will not apply. The Enterprise and developing States are to obtain the required technology through joint venture arrangements or from the open market. If this is not possible, the Authority may request the cooperation of States whose nationals may have such technology to facilitate their acquisition on fair and reasonable commercial terms and conditions consistent with the protection of intellectual property rights. For this purpose, the cooperation of all States Parties is urged.

Section 6 deals with production policy. The Convention had provided for a mathematical formula to control the level of production of minerals from the seabed. This formula was based on historical data on the growth of consumption of minerals, in particular, nickel. However, the prolonged downturn in the world metal market in the last two decades has rendered the formula inoperative. The Agreement therefore provides that the production policy of the Authority shall be based on market forces and that the provisions of the General Agreement on Tariffs and Trade (GATT), its relevant codes and successor or superseding agreements shall apply to activities in the deep seabed. To ensure that minerals produced from land-based sources and those from the seabed compete on a level field, it is provided that there shall be no subsidization of mining activities in the seabed, except as permitted under the GATT rules. Further, there shall be no discrimination between minerals derived from the deep seabed and from other sources in their access to markets or for imports of commodities produced from such minerals.

Section 7 deals with economic assistance to developing land-based producer countries. It anticipates that some land-based producers of the same minerals that are to be produced from the seabed may suffer serious

adverse effects on their export earnings or economies. In cases where such effects may be attributed to mining from the deep seabed, the Authority is required to provide assistance to the affected developing countries. For this purpose, the Authority is to establish an economic assistance fund from a portion of the proceeds from mining in excess of those necessary to cover the administrative expenses of the Authority. This is a significant improvement, in that there is now a clear indication of the source from which such assistance would be provided.

Section 8 deals with the financial terms of contracts. This relates to the system of payment to the Authority for the mineral resources recovered by an operator from the deep seabed. The Agreement sets out the principles on which the financial terms of contract shall be established. In essence, the rates of payment under the system shall be within the range of those prevailing in respect of land-based mining of similar minerals in order to avoid giving deep seabed minerals an artificial competitive advantage or imposing on them a competitive disadvantage. The system, however, must be fair to the operator and to the Authority.

Section 9 establishes a Finance Committee within the Authority which is essentially a technical body charged with the responsibility of overseeing the financial implications of the decisions of the Authority. The Committee will include nationals of the highest contributors in its membership. In particular, the Council and the Assembly are obliged to take into account the recommendations of this technical body. On this issue of finance, it is also prescribed that no decisions having financial implications shall be adopted by the Assembly without first receiving a recommendation on the financial implications from the Council, and in cases where the Assembly does not agree with a recommendation of the Council, the matter shall be referred to the Council for its further consideration and recommendation, taking into account the views expressed in the Assembly.

That summarizes the content of the draft resolution and the Agreement and its annex.

On behalf of the sponsors, my delegation commends this historic draft resolution and the Agreement appended to it for adoption by the Assembly.

Because of the requirements relating to the provisional application of the Agreement, my delegation wishes to request that the draft resolution and the Agreement be adopted by a recorded vote.

Finally, I am pleased to inform the Assembly that the Government of Fiji has decided to sign the Agreement when it opens for signature on Friday, 29 July 1994.

Mrs. Albright (United States): I am particularly pleased to address the General Assembly in support of the draft resolution on the Law of the Sea Convention. In April 1993, I announced a significant change in my Government's policy - that the Clinton Administration had decided to take a more active role in the ongoing search at the United Nations for a way to achieve a widely accepted Convention. The Law of the Sea Convention has been recognized as a remarkable achievement in successfully balancing the maritime interests of all nations. Unfortunately, in one important area, general agreement had to date eluded the international community. Today, thanks to the efforts of a broad spectrum of Member States, this Assembly has before it a draft resolution that completes the long quest.

The work that has been done in the past 16 months validates the Administration's decision to work closely with other Members to resolve the problems with Part XI of the Convention. As someone who has been involved in this issue for many years, both inside and outside my Government, it is especially gratifying for me to be able to share in the international community's final success.

In 1970, this Assembly adopted a resolution which declared the resources of the deep seabed beyond national jurisdiction "the common heritage of mankind" (resolution 2749 (XXV), para. 1). The resolution called for negotiation of an international regime to give effect to the principle that all nations have an interest in, and should benefit from, the development of the resources of the deep seabed. The principle itself was not a new one. It has found expression in many forms over the centuries. Indeed, John Adams, the second President of the United States of America stated that "the oceans and their treasures are the common property of all men".

Similarly, in 1966, President Johnson declared: "We must ensure that the deep seas and the ocean bottoms are, and remain, the legacy of all human beings", and in 1980 the principle was incorporated into United States domestic deep seabed mining legislation.

However, despite the Conference on the Law of the Sea's great success on other contentious maritime issues, it failed in the attempt to give concrete expression to the principle in a legal regime for the deep seabed. As a

result, a number of countries, including the United States, refused to sign the Convention; and many States which had signed refused to ratify unless the outstanding problems with the seabed mining provisions of the Convention were solved. It was in an effort to address this failure and achieve a universally applicable treaty that the Secretary-General's informal consultations were conducted.

We now have before us the fruits of those consultations, an implementation Agreement which removes the remaining obstacles to widespread acceptance of the Law of the Sea Convention. With the changes contained in this Agreement, the seabed mining regime established under the Convention will give all States a voice in managing the resources of the ocean.

It recognizes that certain groups such as consumers and producers of minerals, and investors in seabed mining, have particular interests deserving special protection, while at the same time it recognizes the special interests of developing countries. Of fundamental importance, it provides for the application of free-market principles to the development of the deep seabed. Finally, it establishes a lean institution that is both flexible, and efficient, enough to adapt to the needs of the international community as interest in commercial seabed mining emerges.

For the immediate future we will need to be vigilant, however, to ensure that those institutions' spending is compatible with the limited commercial activity on the seabed. We believe this can be done, keeping the budget comparable to what is now spent on the Preparatory Commission. Additionally, we will need to assure the principle of non-discrimination: that all who seek exploration rights on the seabed based on activities before the Convention's entry into force are treated similarly.

Finally, we note that the entry into force of the Agreement establishing the International Trade Organization will require clarification of the provisions of section 6 of the annex to the Agreement.

The decades-long search for a comprehensive and widely supported Convention on the Law of the Sea will be concluded this week. But the evolution of human activities that led to this Convention will continue, as new technologies emerge and our use of marine resources intensifies. These factors highlight the vital importance to our planet's future of protecting the marine environment and conserving ocean resources. The ongoing negotiations on high-seas fisheries here at the United Nations are just one example of the need to respond as mankind continues to define its relationship with the oceans. In this process, however, the United Nations Convention on the Law of the Sea provides an essential framework that will guide developments. The widespread acceptance of the norms and principles it incorporates and the institutions it establishes will greatly increase the likelihood of expeditiously solving problems we cannot foresee today and dramatically reduce the potential for future conflict.

For these reasons, the United States is pleased to cosponsor the draft resolution by which the Assembly will adopt this Agreement, and it will sign the Agreement, subject to ratification, when it is opened for signature on 29 July. The United States will provisionally apply the Agreement beginning on 16 November 1994, pending its entry into force, in accordance with our laws and regulations. Such provisional application will be based on our signature of the Agreement rather than on our consent to the adoption of the draft resolution.

In conclusion, I would like to acknowledge the contributions by the many dedicated individuals, too numerous to mention by name, who have made this unique achievement possible. I look around this Hall and see many of the negotiators who worked long and diligently at the Conference on the Law of the Sea. My own delegation includes many of the former heads of the United States delegation to the Conference, as well as members of Congress who played an important role. Although their heads may be a bit grayer, their dedication to the quest for a universal convention has lost none of its vigour. With them I see many of the new generation of negotiators who followed in their footsteps and who, encouraged by the achievements of their predecessors, brought renewed dedication, creativity and energy to the task of removing the remaining obstacles to a universal convention. To all, we owe a debt of gratitude.

Finally, I would like to commend the Secretary-General and his predecessor, Javier Pérez de Cuéllar, and their staffs for their dedication to this undertaking. Without their support and prodding, this Agreement would not have been possible. I am firmly convinced that history will judge the negotiation of the Law of the Sea Convention as one of the great achievements of the United Nations and multilateral diplomacy, and I consider it a privilege to have the opportunity to sign the Agreement on behalf of the United States of America.

Mr. Eitel (Germany)(interpretation from French): On behalf of the European Union, we wish to express our very great satisfaction that the efforts made in the consultations organized by the Secretary-General achieved a positive and very tangible result.

It is a particular privilege for me to be able to announce that the European Union has decided to sign the Agreement on the implementation of Part XI of the United Nations Convention on the Law of the Sea as soon as that instrument is opened for signature. This is a clear indication of the importance the European Union attaches to the implementation of the Convention as amended by the Agreement.

After four years of arduous consultations, crowned by the adoption of the present draft resolution, the United Nations Convention on the Law of the Sea - together with the Agreement on the implementation of Part XI thereof - is now acceptable to the largest possible number of States.

We are pleased to note the elimination of the inadequacies and imperfections which were to be found in some of the provisions in the arrangements relating to the seabed and to which the European Community drew attention when it signed the Convention on 7 December 1984.

Need I point out that during those 12 long years since the United Nations Convention on the Law of the Sea was opened for signature, universal participation in the Convention - a real triumph of codification and progressive development of international law - had been to some extent prevented, precisely because of those questions which were the subject of the consultations that have just been concluded.

We are convinced that the texts that the Assembly is going to adopt will constitute the lever which will set in motion, to the great benefit of mankind, that accumulation of legal wisdom and ingenuity that is the United Nations Convention on the Law of the Sea.

The European Union salutes the evolutionary approach adopted in setting up the Authority's institutions and welcomes the sense of economy displayed in doing so. Aware that diverging interests will continue to exist among users of the sea, the European Union also attaches great importance to the provisions of the Convention setting up a system for the compulsory settlement of disputes and establishing the International Tribunal for the Law of the Sea, the operation of which, especially in its initial phase, will have to follow the same principles of economy.

The task which the participants in the consultations had to accomplish was not an easy one. Not only were problems raised by questions of substance, but great difficulties were also encountered in the implementation at the legal level of the solutions put forward.

It was only thanks to a general spirit of good will and cooperation, especially on the part of States that had already ratified the Convention, and through political determination that we were able to overcome those obstacles. If that same spirit continues to prevail in the future, as we hope it will, the success of the system established by the texts now before us will be assured.

Before concluding our statement, we must pay a tribute to the vision, sense of continuity and unceasing efforts of the Secretary-General, Mr. Boutros-Ghali, who has completed with insight and efficiency the work of his predecessor, Mr. Pérez de Cuéllar. I need not dwell on the essential and very well-known role played by those who worked closely with them, which we all appreciate.

In conclusion, I wish to say that the consultations just brought to an end are a fine example of political realism and cooperation, imbued with both imagination and pragmatism, in the legal domain of the international community. May this example inspire us in the future.

In my capacity as Head of the German delegation, I have two further remarks to make.

The first concerns the budgetary implications of the draft resolution and the Agreement we are going to adopt. I wish to draw the Assembly's attention to the fact that the Secretariat's estimates, as contained in document A/48/964, seem too high. We believe that costs could be reduced considerably. We are prepared to make concrete proposals for reductions and to cooperate with all interested parties to see that the costs of the Authority do not exceed appropriate limits.

My second remark, members will not be surprised to hear, concerns the establishment of the Tribunal. We should like it to be established from its inception on a universal basis. To this end we have undertaken to find a means whereby such participation may be achieved from the start of the Tribunal's operation. Also regarding the Tribunal, it goes without saying that we

fully share the concerns of economy already expressed on behalf of the Twelve.

Mr. Puissochet (France) *(interpretation from French):* France supports unreservedly the statement just made by the presidency of the European Union, which fully reflects our position. We should like to pay a special tribute to the tireless and successful efforts of the Secretaries-General of the Organization, Mr. Javier Pérez de Cuéllar and Mr. Boutros Boutros-Ghali, and the outstanding work of their colleagues to promote universal participation in the United Nations Convention on the Law of the Sea.

France also recognizes the exceptionally positive contribution of all the States that took part in the negotiations and the conclusion of the Agreement relating to the Implementation of Part XI of the Convention. They all made a joint effort to assure the international community of a legal order for the seas and oceans. There is no doubt that international cooperation has just scored a resounding success, thanks to the realism and good will of the States Members of the United Nations.

Being conscious of its responsibilities throughout the twenty-odd years that have passed since the beginning of the Third United Nations Conference on the Law of the Sea, France has sought to provide constant and active support for the efforts to consolidate the legal order governing the seas and oceans.

My country signed the Convention as early as 10 December 1982. Despite the insufficiencies and imperfections of that instrument, which it noted in those very words in its statement on the occasion of the signing, it made a point of being one of the Convention's pioneer investors. Along with several other States, it made substantial sacrifices in so doing. And ever since the start of the informal consultations conducted by the Secretary-General, France has played a positive role by contributing the fruits of its own experience with regard to the seabed.

I note today with satisfaction that our concerns have in large part been met. For example, among the improvements that the realism and equity of the Agreement have brought to the Convention there is the provision under which an annual fixed fee is payable only from the date when commercial seabed production begins, which is what we, along with a number of other States, had been proposing continually for almost a decade.

I can state with great satisfaction that France will sign the Agreement relating to the Implementation of Part XI of the Convention as soon as it is opened for signature - that is, the day after tomorrow. In due time my country will announce its consent to the provisional implementation of the Agreement as of 16 November 1994.

We look forward to taking part in the inaugural session of the International Seabed Authority in Kingston and in this way of showing yet again our support for the United Nations Convention on the Law of the Sea.

Mr. Cissé (Senegal) *(interpretation from French):* Despite the persistence of hotbeds of tension, violence and horror that mire the world in consternation and uncertainty, certain significant events of recent years give us reason to believe that the dawn is breaking on the twenty-first century in a climate of strengthened peace, security and international solidarity.

Among the reasons for such optimism is, most notably, the recent consensus among 159 countries on the conclusion of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

The importance of this invaluable outcome must be seen in the light of the differences that persisted for more than a decade on the provisions of that part of the Convention, delaying its entry into force. The controversies at the root of this situation nearly jeopardized the Convention's fundamental concept that the wealth of the sea is the common heritage of mankind.

This significant progress resulted, of course, from the clear-sightedness and realism of the delegations of the countries concerned; but it came about above all thanks to the determination of the Secretary-General, who with the assistance of able, dynamic colleagues pursued the consultations begun by his predecessor. I therefore convey to the Secretary-General the deep gratitude of the delegation of Senegal for having promoted a framework ideal for agreement, in which, following intense, fruitful negotiations, the various groups of States succeeded in bringing their positions closer and in reconciling their respective interests.

In that connection, I wish also to pay special tribute to the negotiators for the patience, skill and spirit of compromise they showed during the four years of long and difficult negotiations. The success of those negotiations, in which Senegal participated actively from 1991, and the concessions made in all quarters, shows that an objective approach to the question of the

exploitation of the seabed was and remains entirely possible.

The only problem, which has been overcome, was adapting the obligations defined in the Convention to present-day industrial and commercial conditions while safeguarding the interests of the various groups and the right of all peoples to an equal opportunity for access to the vast resources of the sea, which are the common property of mankind.

The present debate on endorsing the results of those informal consultations has the advantage of taking place five months before 16 November 1994, the date of entry into force of the Convention, a Convention that can accurately be described as the most important legal instrument of the century. Hence, we are pleased that the draft Agreement relating to the Implementation of Part XI generally takes into account the interests of States in all their diversity as regards geographical location, socio-economic structure and state of development. For instance, compromise solutions have been found for several important questions, such as those relating to decision-making and to the functioning of the Enterprise.

The adoption of the draft Agreement will close an important - perhaps the most important - chapter in the search for consensus on global questions, which since the Third United Nations Conference on the Law of the Sea, have constantly blocked the road to complete, universal acceptance of the Convention. The temporary provisions set out in the draft Agreement on Implementation should enable industrialized countries to drop their grave reservations on Part XI and accede to the Convention in large numbers.

Now that the obstacles have been removed, it would be desirable for the draft Agreement to enter into force with the genuine participation of the developed countries, which possess the financial and technological means to exploit the seabed, so the instrument can be truly operative and of benefit to all the world's peoples.

The participation of all States - large and small, developed and developing, coastal or land-locked - will give full effect to the Convention and promote the establishment of a body of just, equitable international norms governing human activity in the oceans. This would be all the more desirable since, even though it has not yet entered into force, the 1992 Convention on the Law of the Sea has already given rise to domestic legislation on this subject in most Member States.

For its part, Senegal, which was among the first countries to ratify the Convention, as early as 25 October 1984, has modified its domestic legislation in the light of the Convention, with respect to baselines, territorial waters, the exclusive economic zone, marine scientific research and the protection and preservation of the marine environment.

Moreover, we are deeply convinced that there is no doubt that the Convention has become the cornerstone of regional and subregional cooperation in the South Atlantic.

It was also a major inspiration for the work of the United Nations Conference on Environment and Development, held at Rio de Janeiro in June 1992. Chapter 17 of Agenda 21, adopted at that Conference, refers to the Convention's provisions on the definition of the rights and duties of States and on the best ways and means to ensure sustainable development of the marine and coastal environment with a view to guaranteeing the protection and conservation of its resources.

This heightened awareness also gave rise to the idea of an intergovernmental conference on highly migratory and straddling fish stocks. As it has already done at the conference of coastal States of the South Atlantic, Senegal firmly supports this initiative, because it eloquently reflects the international community's determination to apply and develop the fundamental norms laid down in the Convention on the Law of the Sea.

For all those reasons, I urgently appeal to all delegations here today to ensure that our common determination and our profound commitment to the establishment of a new order for the seas and oceans can enable our debate to lead to concrete results in line with the mutual interests of our States and our peoples. I am sure my appeal will be heeded, for no one here will want the responsibility of having held the contrary position or of having prevented the emerging order from being firmly grounded on a basis of solidarity, justice and equity with a view to sustainable development benefiting all mankind.

The changes now taking place in the world demand that we act more vigorously to maintain and strengthen the hopes that have arisen and to join together in building a global village in which present and future generations can live quietly in peace, security and prosperity.

It was in that context that Senegal - having at the outset ratified the Convention on the Law of the Sea and having constantly contributed to efforts towards its implementation - decided to join in sponsoring draft resolution A/48/L.60 on the agenda item under discussion.

In conclusion, Mr. President, it is my hope that your authority and your noted diplomatic skill and experience will make it possible for this draft resolution to be adopted without a vote, thus marking the beginning of a new era in the rational and effective exploitation of the vast wealth and resources of the seas and oceans, in the service of mankind.

The meeting rose at 1.20 p.m.